

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,  
*Plaintiff,*

v.

DAVID RENATO NÚÑEZ-PÉREZ,  
*Defendant.*

Case No. 01-cr-519-JAG-2  
Related to Case No. 19-cv-1555-WGY

**MOTION TO VACATE OR RESCHEDULE PRELIMINARY REVOCATION HEARING**

TO THE HONORABLE COURT:

David Renato Núñez-Pérez respectfully moves this Court to vacate or reschedule the preliminary revocation hearing, currently set for July 22, 2024. If rescheduled, it is requested that the hearing be set on or after August 26, 2024, for the following reasons:

1. A preliminary revocation hearing is scheduled for July 22, 2024.
2. On July 9, 2024, Mr. Núñez was admitted to the *Compromiso de Vida* inpatient treatment program. *See* Dkt. No. 95. Yesterday, July 18, 2024, upon completion of the program, he was discharged.
3. Mr. Núñez's medical treatment and counseling staff have provided him follow-up appointments. This was confirmed through U.S. Probation. He also needs follow-up care from his liver specialists.
4. USPO Ricardo Carrillo, Mr. Núñez's probation officer, does not oppose our request to reschedule the hearing.
5. Asked for the government's position regarding the rescheduling request, counsel for the government has not responded to a written request sent yesterday morning at 10:01 a.m.

6. The requested continuance is in all parties' interest, so that Mr. Núñez can continue to obtain medical treatment for his serious liver conditions, *see* 19-cv-1555-WGY, Dkt. Nos. 65 and 88, and mental health treatment and counseling, which is ongoing.

7. The continuance, or vacatur of the preliminary hearing, is also appropriate in light of the apparent complexity of Mr. Núñez's custody status since he was ordered released in 19-cv-1555-WGY under Fed. R. App. 23(c). Dkt. No. 82 (July 18, 2023) ("Order of Release Pending Review"). The government appeared at Mr. Núñez's initial hearing and opposed release on conditions. The magistrate set a hearing because the respondents in 19-cv1555-WGY did not appear at Mr. Núñez's initial hearing. If Mr. Núñez's Rule 23(c) release has resulted in the active service of an unexpired supervised release term, his release has negated the need to hold a preliminary hearing. *See* Fed. R. Crim. P. 32.1(b)(1)(A) ("If a person is in custody for violating a condition ... supervised release, a magistrate judge must promptly conduct a hearing to determine whether there is probable cause to believe that a violation occurred.").

**WHEREFORE**, we respectfully move this Honorable Court to either vacate the preliminary hearing or continue the preliminary revocation hearing to a date on or after August 26, 2024.

**RESPECTFULLY SUBMITTED** on July 19, 2024.

**RACHEL BRILL**  
Federal Public Defender  
District of Puerto Rico

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**\* ECF CERTIFICATION:** I e-filed this **MOTION TO VACATE OR RESCHEDULE PRELIMINARY REVOCATION HEARING** on **July 19, 2024**, notifying the parties/Government counsel.